IN THE HIGH COURT OF JUDICATURE AT BILASPUR

MISC. APPEAL NO. 267 /2005

APPELLANT: (Applicant No.1) Gopal Das Manikpuri, son of Shri Udal Das Manikpuri, aged about 24 years, resident of Century Cement Factory Campus, Baikunth, Tehsil Tilda, District Raipur.

P.R. No. 564/05
Presented by Shri ... Advocate
Date 23.3.05

RESPONDENT: (Applicant No.2) Smt. Manju Kaushik, wife of Shri Gopaldas Manikpur and daughter of Shri Ashok Kaushik, aged about 23 years, resident of Kanker.

APPEAL UNDER SECTION 19 OF THE FAMILY COURTS ACT, 1984

... dated 15.2.2005 passed

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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. NO. 267/2005

CORAM : Hon'ble Shri S.R.Nayak, Chief Justice
& Hon'ble Shri Dilip Raosaheb Deshmukh, Judge

Appellant (Applicant No.1)	Gopal Das Manikpuri, son of Shri Udal das Manikpuri, aged about 24 years, resident of Century Cement Factory Campus, Baikunth, Tehsil-Tilda, District-Raipur.
	VERSUS
Respondent (Applicant No.2)	Smt. Manju Kaushik, Wife of Shri Gopal das Manikpur and daughter of Shri Ashok Kaushik, aged about 23 years, resident of Kanker.

Present: - Shri B.P.Sharma, learned counsel for the appellant.
Shri Malaya Kumar Bhaduri, learned Counsel for the respondent.

ORAL ORDER
(Passed on 18th January, 2006)

The Following order of the Court was passed by S.R.NAYAK, C.J.

1. This appeal arises out of the proceedings filed under Section-13 of the Hindu Marriage Act. (For short the 'Act'). In the joint petition filed by the appellant and respondent under Section-13 of Hindu Marriage Act., it was agreed that the husband would pay a sum of Rs.2,50,000/- . It was enhanced to Rs. 3,10,000/- in the course of proceedings. The Family Court had fixed the date i.e. 28-10-2004 for payment of Rs.2,60,000/-. Out of that agreed amount Rs.3,10,000/-, the appellant husband had paid Rs.50,000/- to the respondent wife on 05-01-2004 and he was required to pay the balance amount of Rs. 2,60,000/- on 28-10-2004. It is stated that

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on 28-10-2004, the appellant husband wanted to pay the balance amount by way of demand draft to the respondent wife, but, she was absent. In that view of the matter, it appears that the Family Court issued notice to the respondent wife to appear in person before the Court and the respondent being annoyed by service of notice on her, she appeared before the Family Court and submitted that she was not willing for divorce. In these circumstances, the Family Court by the impugned order dated 15-02-2005 has dismissed the Case Number- H.M.-275A-2004. Being aggrieved by the above order of the Family Court, the husband has filed this appeal under Section-19 of the Family Court Act, 1984.

2. In response to the notice issued by the Court on 28-11-2005, both the parties appeared in person along with their counsel and they told us that the marriage between them was permanently and irretrievably broken down due to serious incompatibility between them. We made anxious enquires with the parties and we are satisfied that they have taken the decision for divorce keeping in mind pros and cons of their action and out of their free will and volition and not being influenced by any extraneous consideration or influence. We are satisfied that the parties are not likely to lead a happy married life. Moreover, there are no issues out of the wedlock between the parties. Today, the appellant husband through his counsel handed over the crossed demand draft dated 11-10-2005 bearing No. 895163 for Rs. 2,60,000/- in favour of the respondent wife Smt. Manju Kaushik drawn on the UCO Bank, Raipur in our presence. She acknowledges the receipt of the same.

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3. In that view of the matter, we allow the appeal, set aside the impugned order of the Family Court impugned in this appeal and allow the application filed by the appellant husband and the respondent wife under Section-13 of the Hindu Marriage Act and dissolve the marriage between the parties solemnized on 20-06-2000 by decree of divorce.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Sd/-
Chief Justice

Tirmare